

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, March 4, 2009

10:00 AM

Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: February 19, 2009

RE: Closed Session of the Board on March 4, 2009

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. AC TRANSIT, 08-R1D4-0135
2. CITY OF LOS ANGELES, DWP, 08-R4D3-0842
3. FOXFIRE CONSTRUCTORS, INC., 07-R5D3-4919
4. HY-MAX BUILDING CORP., 07-R4D1-5360 AND 5361
5. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494

6. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY AND DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272 AND 1273

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. @ WORK, AT WORK PERSONNEL SERVICES, 08-R1D2-1380
2. A CEDAR FAIR LP PARK DBA KNOTT'S BERRY FARM, 08-R3D1-3291 AND 3292
3. ALL THE SAINTS, INC. DBA KEENTO SOL PRINTING, 08-R6D6-3241 AND 3242
4. AMG & ASSOCIATES, INC., 08-R4D1-4557 AND 4558
5. ASSOCIATE MANAGEMENT RESOURCES, INC., 08-R3D5-4699 AND 4700
6. SILVIA AVILA, AN INDIVIDUAL DBA ANGEL'S PALLETS, 08-R6D5-3561 THROUGH 3570
7. C.C. MYERS, INC., 08-R1D1-1285
8. CALIFORNIA PLASTERING, 06-R6D2-708 AND 709
9. CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA, 07-R4D4-5226 AND 5227
10. CAST ALUMINUM & BRASS CORP., DBA CASTCO, 07-R1D4-2361 THROUGH 2364
11. CATALINA ESPANA DBA ESPANA METAL CRAFT, 08-R4D3-0464 THROUGH 0466
12. CENTRAL CHEVROLET, 05-R1D4-2615 THROUGH 2618
13. CLARY CORPORATION, 08-R6D2-1666 THROUGH 1672
14. COPAC CONSTRUCTION, 08-R4D1-4704 AND 4705
15. DENNIS CRITES DBA DC CONSTRUCTION, 07-R2D3-0642

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For March 4, 2009
Page 3

16. RAY DERINGER DBA COMMERCIAL BUILDING SERVICES, 08-R1D1-0865 AND 0866
17. DHE/DEPENDABLE LOGISTIC SERVICES, 06-R4D2-2337 AND 2338
18. EDM CONSTRUCTION, 08-R4D4-1369 AND 1370
19. EDUCATIONAL ENRICHMENT SYSTEMS, 08-R3D2-1866 AND 1867
20. FIRST CLASS PACKAGING, INC., 08-R6D2-2702
21. FOTIS & SON IMPORTS, INC., 08-R6D2-4016 THROUGH 4019
22. FRESH FOOD CONCEPTS, INC., 08-R6D2-1927 THROUGH 1930
23. GALE FORCE PRESSURE WASHING, 08-R4D1-4131
24. GARFIELD BEACH CVS, LLC DBA CVS PHARMACY, 08-R3D3-2987 AND 2988
25. GONSALVES & SANTUCCI, INC. DBA CONCO PUMPING, 08-R4D1-2518 AND 2519
26. HELEN GRACE CHOCOLATES, 09-R6D2-0307 THROUGH 0309
27. HACIENDA HARVESTING, 08-R4D5-1373
28. HENSEL PHELPS CONSTRUCTION CO., 08-R3D2-2612
29. HIEN DIHN NGUYEN, 08-R6D5-2774 AND 2775
30. IRONWOOD DOORS, LLC, 08-R6D2-1173 THROUGH 1175
31. JAUBIN SALES & MFG CORP & J SHEET METAL, 08-R6D2-4409 AND 4410
32. JVR, INC. DBA TALSCO, 08-R6D2-2872 THROUGH 2877
33. JY CAL, INC., 09-R6D5-0227 THROUGH 0229
34. LAB CORP. [LABORATORY CORPORATION OF AMERICA], 08-R3D2-0424 THROUGH 0428
35. JONATHAN LEWIS INTERNATIONAL, 07-R4D4-4709 AND 4710
36. MAR VISTA WOOD PRODUCTS, INC., 08-R6D2-2523 THROUGH 2538

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM

For March 4, 2009

Page 4

37. MAXIM FLOOR SYSTEMS, 07-R4D1-4712 THROUGH 4714
38. MCCARTHY BUILDING COMPANIES, INC., 09-R3D1-0141
39. MONTEREY KIMBERLY PLACE LLLP, LP, 07-R1D2-3906 THROUGH 3912
40. PAN PACIFIC PLUMBING, 08-R3D1-5177
41. PARAMOUNT SCAFFOLD, INC., 08-R4D1-3526
42. PARIMAR, INC. DBA D. DE FRANCO & SONS, 08-R6D2-1264 THROUGH 1269
43. PAULINO PAYAN, 07-R4D4-0539 THROUGH 0541
44. PAUL'S CUSTOM SHUTTERS, 08-R6D2-1794 AND 1795
45. POOL WELL SERVICES CO., 05-R3D7-2927
46. REPUBLIC BAG, INC., 08-R3D3-3213 THROUGH 3215
47. REPUBLIC SERVICES OF SOUTHERN CALIFORNIA, 08-R6D2-1246 AND 1247
48. SAM'S HAND CAR WASH, INC., 08-R6D5-2793 THROUGH 2795
49. SENG A ENGINEERING, INC., 08-R3D1-3046 THROUGH 3048
50. SHAPIRO PLASTERING, INC., 08-R1D3-1484 THROUGH 1486
51. STANDARD DRYWALL, INC., 08-R3D2-2737
52. TRIUMPH CONSTRUCTION, INC., 08-R4D1-2274 THROUGH 2278
53. UNITED PARCEL SERVICE, 07-R4D3-4571
54. US POLYMER, INC., 08-R4D4-0929 AND 0930 AND 09-R4D4-0271
55. WELDING UNLIMITED, INC., 08-R4D4-1236 AND 1237

ORDERS DISMISSING APPEALS:

1. AEROTEK, 08-R2D5-9472
2. CALIFORNIA PRUNE PACKING CO., INC., 03-R2D3-2546 THROUGH 2548

3. DESROSES CONSTRUCTION AND PLUMBING, 08-R4D2-9476
4. DUPLICATE PARTS CO., 08-R6D2-9479
5. FRANCISCO MORA, 08-R1D2-9471
6. OLYMPIC KNITTING MILL, INC., 08-R4D2-9475
7. WALKER WOODS PRODUCTS CORP., 08-R3D3-1506 AND 1507

ORDERS DENYING-DISMISSING LATE APPEALS

1. BASANTY CONSTRUCTION, INC., 09-R1D2-9052
2. KCRETE, INC., 09-R2D5-9051
3. KHOURI FARMS, 09-R2D5-9050
4. SANTOS CONCRETE PUMPING SERVICE, 09-R1D2-9053

STIPULATIONS:

1. BENICIA FABRICATION & MACHINE, INC., 07-R2D2-2178 AND 2179
2. CINTAS CORPORATION, 07-R2D4-4349 AND 4350
3. EVASIVE ANGLES AND ITS SUCCESSORS, 07-R6D2-252 AND 253
4. HELIX ELECTRIC, 03-R1D3-2115
5. LINNEMAN RANCHES, 07-R2D5-494
6. H. LEE MARTINEZ, D.D.S., 02-R2D1-4623 AND 4624
7. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-1436
8. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-2969
9. NATIONAL STEEL AND SHIPBUILDING COMPANY, 08-R6D2-2970
10. NAUGHTY AMERICA, 07-R6D2-5120 THROUGH 5122

PETITIONS FOR RECONSIDERATION:

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For March 4, 2009
Page 6

(The Division of Occupational Safety and Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. ANODIZING INDUSTRIES, INC., 08-R4D2-2563 THROUGH 2565
2. BIMBO BAKERIES, USA, 05-R6D2-0856 AND 0857
3. CALIFORNIA CARTAGE COMPANY, LLC, 08-R3D5-4790 AND 4791
4. DO-CYCLE, INC., 08-R2D5-0165

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
2. AC FRAMERS INC., 03-R2D3-3475
3. AMISH COUNTY GAZEBOS, INC., 08-R6D2-227
4. ASC PROFILES, INC., 06-R2D1-1181
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
11. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
12. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
14. CALIFORNIA FRESH FARMS, 06-R2D4-4127

15. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
16. CVS PHARMACY GARFIELD BEACH LLC, 08-R3D1-9368
17. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
19. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
20. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
21. DUKE PACIFIC, INC., 08-R3D3-574
22. DYNALECTRIC, 03-R1D1-4101
23. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
24. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
25. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
26. FORTUNA IRON WORKS 06-R2D3-4222
27. G.T. ALDERMAN, INC., 05-R4D3-3513
28. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
29. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
30. GLASS PAK, 03-R2D2-750 AND 751
31. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
32. HELPMATES STAFFING SERVICES, 05-R3D3-2239
33. THE HERRICK CORP., 07-R3D1-495
34. HUSSMAN CORPORATION, 03-R3D1-2939
35. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
36. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For March 4, 2009
Page 8

37. JENSEN PRECAST, 05-R2D1-2377
38. JOHN LAING HOMES, 04-R3D1-194 AND 195
39. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
40. KELLY SERVICES, INC., 06-R1D2-1024
41. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
42. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
43. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
44. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
45. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554
46. O & M INDUSTRIES, 04-R1D5-1597
47. PMR RACE CARS, 03-R3D3-1825
48. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
49. R & L BROSAMER, INC., 03-R1D5-4832
50. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
51. STACY & WITBECK, INC., 05-R1D1-1142
52. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688
THROUGH 1692
53. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
54. A. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES,
04-R5D2-850 AND 851
55. A. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650
AND 2651

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION MEMORANDUM
For March 4, 2009
Page 9

61. A. TEICHERT AGGREGATES, 04-R5D1-2982
62. TRIO METAL, 03-R4D4-317
63. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
64. UNITED AIRLINES DBA UNITED AIRLINES SFO SYC, 00-R1D3-2844
65. UNITED PARCEL SERVICE, 07-R3D3-3322
66. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
67. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

PENDING LITIGATION:

(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
2. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
3. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
4. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
5. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
6. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
7. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
8. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
9. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)
10. MENDOTA UNIFIED SCHOOL DISTRICT, 08-CE CG 04 324 (07-3572)

11. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
12. INTERNATIONAL TRANSPORTATION SERVICE (07-3824)
13. UNITED AIRLINES, 07CS00331 (00-2844)

APPELLATE COURT:

1. MURRAY COMPANY, BS112469
2. HARRIS CONSTRUCTION COMPANY, INC. 07CS00518 (02-3914)

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.